IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

Bail Appl..No. 6954 of 2006()

CRIME NO. 686/06 OF KOTTIYAM POLICE STATION

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PETITIONER/1ST ACCUSED:

ANSARI @ ATHU, S/O. KABEER KUTTY,
VADAKKUMKARA PUTHEN VEEDU, NEAR MES JUNCTION,
VELICHIKKALA P.O., NEDUMPANA VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI. K.SIJU
SRI.S.SUDHEESHKAR

RESPONDENTS: STATE:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE, KOTTIYAM
POLICE STATION THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD
ON 04/12/2006, ALONG WITH BA NO. 6958 OF 2006
THE COURT ON 07-12-2006 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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B.A. 6954/06 & B.A. NO. 6958/06

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Dated, this the 7th day of December 2006

ORDER

B.A. 6954/06 is an application for regular bail filed by the first accused in Crime No. 686/06 of Kottiyam Police Station for offences punishable under Sections 366 (A) and read with Sec. 34 I.P.C. The occurrence took place on 30-10-2006 and the first accused was arrested on 4-11-2006.

2. B.A.6958/06 is an application for anticipatory bail filed by the petitioners who are accused Nos. 4 and 5 in the aforesaid crime.

3. I heard the learned counsel for the petitioners and the learned Public Prosecutor. The learned Public Prosecutor opposed the applications and made available to me the case diary files pertaining to the matter.

4. Investigation thus far conducted by the police reveals the involvement of the following persons:-

A1- Ansari - Petitioner in B.A. 6954/06
A2- Shameer
A3- Sherif
A4- Abdul Manaf
A5- Shihabudeen - A4 and 5 are Petitioners in B.A. 6958/06

5. 15 year old Sherina who has studied up to 8th standard is employed in a cashew factory at Kannanallur. She was in love with one Rasheed , residing near her house. They used to meet frequently and used to talk for long hours. Many of the local people were aware of their romance. In order to meet Rasheed, Sherina used to go to the tea shop of one Salim in the town. On 30-10-2006 at 3.30 p.m. she went to the tea shop of Salim to meet Rasheed. A3 (Sherif) who is a neighbour of Sherina was there in the tea shop. Salim was not in the tea shop. A3 gave her the mobile number of Salim for finding out the whereabouts of her lover Rasheed. A3 also told her that if

she called Salim at 4.30 p.m., Rasheed also would be with Salim. Accordingly, she called Salim at 4.30 p.m. from a public booth. Salim told her that Rasheed had not come and asked her to call after some time. She then went to her grandfather's house at Kureeppally. She again called Salim from another telephone booth. Salim told her that Rasheed had not come and that A3 was there and gave the phone to A3. She told A3 that she wanted to see Rasheed. A3 promised her o take Rasheed to her. At about 5.30 p.m. A3 along with A1 (Ansari) came in an autorickshaw which was driven by A2 (Shameer). A3 told her that Rasheed was waiting for her and asked her to get into the autorickshaw. Believing him, she got into the autorickshaw. Herself and A1 were sitting in the back. After some time A3 also came to the rear seat. Sherina then started crying. A3 told her not to cry and assured her that they will take her to Rasheed. After travelling for a long time they stopped the autorickshaw in front of a medical store which A2 and A3 purchased something which she later discovered to be condoms. After proceeding further they reached a garden land and the autorickshaw was parked near a Mill. When Sherina started crying A3 held his hand against her mouth to silence her. She was then taken to the plantation. From there A1 raped her. A2 and A3 facilitated A1 to ravish her. Thereafter, all the three of them had sexual intercourse with her one by one. Two of them were wearing condom but A1 was not wearing any condoms. At about 9'0 clock when she again started weeping they took her in the autorickshaw. From Velichikkala junction, A1 contacted somebody over the mobile phone. After some time A4 (Abdul Manaf) came in an autorickshaw driven by A5 (Shihabudeen). A2 to A3 went away in the same autorickshaw in which they had come. Sherina was taken by A1, A4 and A5 in the other autorickshaw. They bought her coffee from a way side cafeteria and then took her to the Adichanelloor Panchayath School. They got into an empty class room from where A1 again satiated his lust in her. A4 and A5 also

outraged her modesty by embracing her and squeezing her breasts. When A4 and A5 made further prurient overtures towards her, she cried aloud. Thereupon abusing her in filthy language A4 and A5 went away. She spent the night in the school till 4 a.m. during which period A1 again ravished her. A1 then took her in the autorickshaw and dropped her at Kureepally at 7 a.m. She went to her grandfather's house and from there she reached her own house in the evening of 31-10-2006. It was on the next day only that she revealed to her mother about her traumatic experience during the previous night. She told her mother that it was by promising that he would marry her that A1 had sexual intercourse with her.

6. It is too early to accept the case of the petitioners that they are innocent and that the delay in lodging the complaint is fatal to the prosecution. Investigation of the case is still in the preliminary stage. Anticipatory bail cannot be granted to accused Nos. 4 and 5. In the case of the first accused also, if, he is released on bail, he will definitely influence and intimidate the prosecution witnesses including the victim. I am not inclined to grant bail to the petitioners.

These bail applications are accordingly dismissed.

Sd/-V. RAMKUMAR,
(JUDGE)

ani.

/true copy/

P.A. to Judge.